IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.824 of 2006

Thirukumaran ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by the Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Perambalur District,
Perambalur. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records in detention order No.Crl.M.P.No.19/2006 dated 03.05.2006 on the file of the second respondent, set aside the same and direct the second respondent herein to produce the body of the petitioner Thirukumaran now confined in Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mrs.R.Subadradevi for
Mr.M.Shankar

For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Thirukumaran, who is detained as a ''Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act,

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1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 03.05.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 26.05.2006 was received by the Government on 22.06.2006 and the remarks were called for on the same day i.e. on 22.06.2006 and the representation of the detenu was received from the Government on 26.06.2006 and the parawar remarks were called for from the Sponsoring authority on 28.06.2006 and the remarks were received from the sponsoring authority on 07.07.2006 and the report was sent to the Government on 10.07.2006. Thereafter, the remarks were received by the Government on 11.07.2006 and the File was submitted on 12.07.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 13.07.2006 and finally, the Minister for Prohibition and Excise passed orders on 16.07.2006. The rejection letter was prepared on 18.07.2006 and the same was sent to the detenu on 19.07.2006 and served to him on 21.07.2006. As rightly pointed out by the learned counsel for the petitioner, though parawar remarks were called for from the sponsoring authority on 28.06.2006, the remarks were received from the sponsoring authority by the Collectorate only on 07.07.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks to the Collectorate is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

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Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector, Perambalur District, Perambalur.

3. The Superintendent, Central Prison, Tiruchirapalli.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ 1 CC To Mr. P.Venkatasubramanian, Advocate SR NO. 48707

HCP. No.824 of 2006

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